



Docket No.: 1701.1002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Byoung-Woo CHO

Serial No. 10/647,125

Group Art Unit: 3765

Confirmation No. 9836

Filed: August 25, 2003

Examiner: Katherine M. MORAN

For: HEADGEAR WITH SIZE ACCOMMODATION IN THE FRONT

COMMENTS REGARDING STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

A Statement of Reasons for Allowance was forwarded in the Notice of Allowability mailed June 3, 2009.

MPEP §1302.14 states, in part:

Where specific reasons are recorded by the examiner, care must be taken to ensure that statements of reasons for allowance (or indication of allowable subject matter) are accurate, precise and do not place unwarranted interpretations, whether broad or narrow upon the claims. The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible estoppel effects.

The Examiner characterizes certain features of various claims. However, the Examiner has not recited the appropriate language for the appropriate claims as pending and allowed in the application.

By way of example, the Reasons refer to the fabric being formed "from" stretchable fabric. However, claim 1 (for example) recites that the fabric is formed "of" stretchable fabric.

The foregoing is merely meant to be exemplary, and does not point out all of the

discrepancies between the Examiner's Statement of Reasons for Allowance and the claimed features of the currently pending claims.

Furthermore, the reasons for allowance include descriptions and characteristics of selected items of prior art. It is submitted that such characterizations are not proper "reasons for allowance" as directed by 37 C.F.R. §1.104 and as explained in M.P.E.P. §1302.14. In particular, a discussion of the prior art is specifically identified as Example (F) of M.P.E.P. §1302.14 of a statement which is not a suitable reason for allowance.

It is further submitted that the claims speak for themselves and should not be interpreted based on the Examiner's characterizations of same. It is also submitted that the claims provide their own best evidence as to the reasons for allowance.

In summary, it is submitted that the Examiner's Statement "raises possible misinterpretations... and possible estoppel effects" (M.P.E.P. §1302.14) and is therefore improper.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 7-24-09

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